United Nations CCPR/C/SR.2712

International Covenant on Civil and Political Rights

Distr.: General
19 May 2010

Original: English

Human Rights Committee

Ninety-eighth session

Summary record (partial)* of the 2712th meeting

Held at Headquarters, New York, on Thursday, 25 March 2010, at 3 p.m.

Chair: Mr. Iwasawa

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 3.15 p.m.

Follow-up on views under the Optional Protocol

Follow-up Progress Report of the Human Rights Committee on Individual Communications (CCPR/C/98/3)

1. **The Chair** drew attention to the follow-up progress report of the Human Rights Committee on Individual Communications (CCPR/C/98/3).

2. **Ms. Wedgwood**, speaking as Special Rapporteur for follow-up on Views under the Optional Protocol, introduced the follow-up progress report, which included information received since the Committee's 97th session.

3. Referring to case No. 1297/2004 (*Medjnoune v. Algeria*), she recommended that the Committee should persuade the State party, itself an outspoken member of the Human Rights Council, to give an indication of when the author would be tried. In cases No. 1178/2003 and 1553/2007 involving Belarus, which disputed the Committee's findings and therefore refused to implement its Views, a meeting with State party representatives would be productive. With respect to case No. 1353/2005 (*Afuson v. Cameroon*), the State party had claimed that it had attempted to provide a remedy but had been unable to reach the author. The Committee might therefore consider supplying the State party with the author's e-mail address, as long as doing so did not endanger the author. Turning to case No. 1134/2002 (*Gorji-Dinka v. Cameroon*), she noted that the State party, after failing to respond to the Committee's three requests for information while preparing its Views, now wished to submit information. She recommended that the Committee should enquire as to what information country representatives wished to contribute, while also reminding them of States parties' obligations under the Optional Protocol.

4. In case No. 1792/2008 (*Dauphin v. Canada*), she pointed out that, since she had dissented from the Committee's finding of violations of the Covenant, a Committee member who had shared the majority opinion should be present at her meeting with State party representatives, so that her dissenting view would not be cited in support of its dispute with the Committee's Views. With regard to case No. 612/1995 (*Arhuacos v. Colombia*), the Committee should reiterate its request for a response from the State party on its failure to prosecute any of the perpetrators involved in the torture and disappearance of the five authors, only two of which had received some compensation. Turning to case No. 1510/2006 (*Vojnović v. Croatia*), she suggested that the Committee should wait for a response from the author on whether he found the State party's allocation of an apartment comparable to his pre-war accommodation to be a satisfactory remedy.

5. In case No. 1482/2006 (*Gerlach v. Germany*), she welcomed the State party's decision to make known to all German courts the Committee's Views on the right to take part in a hearing and proposed that the Committee should discontinue consideration of the matter under the follow-up procedure, given that the author appeared to suffer from a mental disability and had made a large number of unintelligible submissions to the Committee since the Views had been adopted. With respect to case No. 1275/2004 (*Umetaliev et al v. Kyrgyz Republic*), the Committee should await a response from the author as to whether he deemed the ongoing criminal proceedings following the death of his son to be adequate. Turning to case No. 1512/2006 (*Dean v. New Zealand*), she noted that the author's decision to participate in a rehabilitation programme suggested by the State party, a decision taken since the most recent hearing on the case in September 2009, might render his prior complaints moot, and suggested that the Committee wait for his response to the State party's submission of 23 October 2009.

6. In case No. 1542/2007 (*Aboushanif v. Norway*), given that the State party had pledged full compliance with the Views of the Committee, instructing its courts of appeal always to include reasons for their decisions on denial of leave to appeal and quashing the decision of the Borgarting Appeal Court of 1 June 2006 because it had failed to do so, the Committee should consider the follow-up dialogue ongoing, pending the author's retrial, the outcome of which would subsequently determine whether he was entitled to his secondary claim of compensation for non-pecuniary losses.

7. With regard to case No. 1407/2005 (*Asensi v. Paraguay*), it would be reasonable for the Committee to request the State party, which claimed that its legislation allowed the author to obtain the right to visit his children, who were living with their mother in Paraguay, to provide the author with detailed information on effective remedies available to him. Turning to case No. 1457/2006 (*Poma v. Peru*), she

proposed that the Committee should ask the author whether measures taken by the State party to guarantee access to water resources even in times of shortage, including soliciting and taking into account feedback from the indigenous communities, were sufficient.

8. In case No. 1466/2006 (*Lumanog v. The Philippines*), the Committee might wish to request the State party to respond specifically to the authors' arguments on the issue of undue delay in their appeal of the penalty of "reclusión perpetua", or life imprisonment, without the benefit of parole; in that connection, the State party should set a time limit for deciding the matter, which had been deferred so that similar cases could be considered together. Regarding case No. 1447/2006 (*Amirov v. Russian Federation*), it would be sensible to press the State party to answer the author's specific claims as to why the Russian authorities' explanation of his wife's death remained inadequate.

9. Turning to case No. 1493/2006 (*Williams Lecraft v. Spain*), she noted that the State party's official apology to the author for the racial profiling incident and its efforts to disseminate the Committee's Views throughout all main judicial bodies and organs constituted the best outcome that could be hoped for, namely, a pledge in good faith to remedy harm done. The Committee might wish to contact the author to enquire whether she was satisfied with the measures taken by the State party.

10. **Mr. O'Flaherty** said that, while he agreed that the Spanish Government's response was encouraging and that the Committee should await the author's reply, it might interest members to know that the author had publicly expressed dissatisfaction with that response as recently as the previous week.

11. **The Chair** said that he took it that the Committee approved the proposed course of action and would consider the dialogue ongoing pending receipt of a reply from the author.

12. **Ms. Wedgwood** said that cases in which the State party undertook systematic reforms in response to the Views of the Committee exemplified the virtues of the follow-up procedure under the Optional Protocol. With regard to cases Nos. 1200/2003, 1263/2004, 1264/2004 and 1276/2004 involving Tajikistan, and cases Nos. 1163/2003, 1382/2005 and 1418/2005 involving Uzbekistan, both States parties contested the Committee's findings. Noting that torture cases such as those should be the Committee's top priority, she proposed that the Committee should promptly schedule meetings in order to pursue a sincere dialogue on the issue with State party representatives.

13. Turning to case No. 1132/2002 (*Chisanga v. Zambia*), she said that the Committee might find it no longer necessary to consider the matter under the follow-up procedure, given that commutation of the author's death sentence to life imprisonment had resolved what had essentially been framed as a death penalty complaint.

14. **Sir Nigel Rodley** said that to him, the wording of the recommended remedy seemed unusual; by stating that commutation was a necessary prerequisite to a remedy, it implied that some other kind of remedy in addition might have been appropriate as well.

15. **Ms. Wedgwood** said that she would review the case, bearing that in mind. However, it would be necessary for the Committee to consider systematically its approach to damages in cases where the author's primary concern was avoiding capital punishment, namely by keeping an account of how similar cases had been treated. To that end, she would ask the Secretariat to compile available records of cases involving commutation of a death sentence.

16. **The Chair** said that he took it that the passage in question would be reworded and that the Committee approved the action recommended on the case involving Zambia.

17. *The recommendations contained in the follow-up progress report of the Committee on individual communications were approved.*

The discussion covered in the summary record ended at 3.40 p.m.